

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MINNESOTA

3 -----
4 UNITED STATES OF AMERICA, Case No. : 0:10-cr-173-MJD-JJG-1
5 Plaintiff, EXCERPTS
6 vs. OF
7 KENNETH LEON WILCOX, PROCEEDINGS
8 Defendant. (TESTIMONY OF
9 CHARITY HANSEL)
10 -----

11
12
13
14 The above-entitled matter came on for MOTIONS
15 HEARING before Magistrate Jeanne J. Graham, on July 27th,
16 2010, at the United States District Courthouse, 316 N. Robert
17 Street, St. Paul, Minnesota 55101 commencing at approximately
18 1:30 p.m.

19
20
21 OFFICIAL COURT REPORTER: RONALD J. MOEN, CSR, RMR
22 CALIFORNIA CSR NO.: 8674
23 ILLINOIS CSR NO.: 084-004202
24 IOWA CSR NO.: 495
25 RMR NO.: 065111

APPEARANCES

OFFICE OF THE UNITED STATES ATTORNEY, 300 South
Fourth Street, Suite 600, Minneapolis, Minnesota 55415, by
KIMBERLY A. SVENDSEN, Assistant United States Attorney,
appeared as counsel on behalf of Plaintiff.

OFFICE OF THE FEDERAL DEFENDER, 300 South
Fourth Street, Suite 107, Minneapolis, Minnesota 55415, by
DOUGLAS OLSON, Assistant Federal Defender, appeared as
counsel on behalf of Defendant.

INDEX

<u>WITNESS</u>	<u>D</u>	<u>C</u>	<u>RD</u>	<u>RC</u>
CHARITY HANSEL	3	18	33	

EXHIBITS

<u>EXHIBIT</u>	<u>OFFERED</u>	<u>RECEIVED</u>
GOVERNMENT EXHIBIT 1	9	9
GOVERNMENT EXHIBIT 2	11	11
GOVERNMENT EXHIBIT 4	14	14
GOVERNMENT EXHIBIT 3	17	17
DEFENDANT EXHIBIT 1 (Received for Purposes of this hearing)	24	24

1 THE COURT: Okay. Call your first witness.

2 MS. SVENDSEN: Yes, your Honor. The United
3 States calls Charity Hansel.

4 (Court administers oath to the witness).

5 THE COURT: Please have a seat. If you could
6 state your name again, and spell your last name, please.

7 THE WITNESS: Charity Hansel, H-a-n-s-e-l.

8 THE COURT: S-e-l. And your first name, again?

9 THE WITNESS: Charity.

10 THE COURT: Go ahead and spell that.

11 THE WITNESS: C-h-a-r-i-t-y.

12 THE COURT: Thank you. Go ahead, Counsel.

13 MS. SVENDSEN: Thank you, your Honor.

14 CHARITY HANSEL,

15 witness herein, called as a witness by Plaintiff, having been
16 first duly sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SVENDSEN:

19 Q. Good afternoon, Investigator Hansel. Where do you work?

20 A. Coon Rapids Iowa Police Department.

21 Q. How long have you worked there?

22 A. Eighteen years.

23 Q. And what is your current assignment?

24 A. I'm assigned to the Internet Crimes-Against-Children Task
25 Force with the state police.

1 Q. How long have you been assigned to the ICAC?

2 A. Since November of 2008.

3 Q. And could you briefly describe what your duties and
4 responsibilities are in that position?

5 A. I investigate persons who possess, exchange or share
6 child pornography via peer-to-peer network on the Internet.
7 I also respond to cyber tips from the National Center of
8 Missing & Exploited Children, and I assist other law
9 enforcement agencies on the eastern side of Iowa with child
10 sexual abuse and exploitation cases.

11 Q. Before you began working with the ICAC, what was your job
12 at the Cedar Rapids Police Department?

13 A. I was an investigator in the sex crimes unit.

14 Q. And for how long did you have that position?

15 A. Five and a half years.

16 Q. Have you had training with respect to advising defendants
17 of their constitutional rights under *Miranda v. Arizona*?

18 A. Yes.

19 Q. And generally, what procedure do you follow to advise a
20 defendant of his or her Miranda rights?

21 A. I like them to read the advisory aloud to me and, then,
22 ask them if they understood what they read.

23 Q. Have you been involved in an investigation involving
24 Kenneth Leon Wilcox?

25 A. Yes.

1 Q. How were you involved in that investigation?

2 A. I was called by my state police commander out of Ankeny
3 to assist Truman, Minnesota officers in interviewing
4 Mr. Wilcox, who had been stopped in Iowa, and was being held
5 at the Buchanan County Jail.

6 Q. And, as a result of that request, did you conduct an
7 interview with Kenneth Wilcox on December 15th, 2009?

8 A. Yes.

9 Q. And do you see Mr. Wilcox present in the courtroom today?

10 A. I do.

11 Q. Could you describe where he's sitting, and what he's
12 wearing?

13 A. He's the white man at the defendant's table, wearing the
14 orange shirt and pants.

15 MS. SVENDSEN: May the record reflect that the
16 witness has identified the defendant?

17 THE COURT: It shall.

18 BY MS. SVENDSEN:

19 Q. So turning your attention to the December 15th, 2009
20 interview, where did that interview take place?

21 A. In an office at the Buchanan County Courthouse facility.
22 It has the jail and the city police and the county deputies
23 all housed in the same building.

24 Q. And just to be clear, do you work there?

25 A. No.

1 Q. So how did you come to be conducting the interview there
2 on that day?

3 A. I was called up to assist Buchanan County and the Truman,
4 Minnesota Police Department. The reason that we were up
5 there was because that's where Mr. Wilcox was being held in
6 custody at.

7 Q. And who was present during the interview?

8 A. Another officer from Truman, Minnesota Police.

9 Q. And would that have been Officer Chad Bonine?

10 A. Yes.

11 Q. As well as yourself and the defendant?

12 A. Yes.

13 Q. And were there times during the interview when other
14 individuals came into the room?

15 A. Yes.

16 Q. Could you describe that?

17 A. At one point Chief Jobe, who I believe is with Truman,
18 Minnesota Police, as well, came in to give Mr. Wilcox some
19 paperwork from the court in regards to having contact with
20 his daughter and his daughter's mother. I think at one point
21 Sergeant Johnson came in. But, for the most part, we were --
22 it was just the three of us.

23 Q. And where in the building did the interview take place?

24 A. In Sergeant Johnson's office.

25 Q. Could you describe what that room is like?

1 A. It's a room that's ten foot-by-17 foot; it has an
2 L-shaped desk, the wall where the video equipment is at has
3 three large bookcases along the wall, and there was some --
4 there was at least three chairs in the room and, then, there
5 were some other things stacked up against the wall behind us.
6 And a single door.

7 Q. And where was the door located in the room?

8 A. It would have been to my right. Mr. Wilcox and I were
9 seated closest to the door.

10 Q. How did the defendant come into the room?

11 A. He was brought into the doorway of the room. He had leg
12 shackles and handcuffs on.

13 Q. And was he brought into the room by another officer?

14 A. By someone from Buchanan County.

15 Q. And what happened when he got into the room?

16 A. His handcuffs were removed and he was seated in a chair
17 directly across from me, by the door.

18 Q. So you were seated directly across from the defendant;
19 correct?

20 A. Yes.

21 Q. Where did Officer Bonine sit?

22 A. He sat on the other side of Sergeant Johnson's desk.

23 Q. How far or close were each of you to the defendant?

24 A. I was pretty close. I would say our knees were probably
25 a foot apart. So our bodies were three-foot apart. The

1 other officer sat on the other side of the desk, so he was
2 several feet away from the defendant.

3 Q. How were you dressed during the interview?

4 A. I had on a pair of socks and a sweater.

5 Q. And how was Officer Bonine dressed?

6 A. He had on a pair of khaki slacks and a dark-colored
7 shirt-jacket.

8 Q. How did the interview begin?

9 A. I introduced myself, and where I worked, and we sat down,
10 and I asked him a few personal questions.

11 MS. SVENDSEN: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 BY MS. SVENDSEN:

15 Q. I'm showing you a document that's been marked as
16 Government's Exhibit 1. What is that document?

17 A. This is a document that I have prepared over the years to
18 ask persons questions prior to an interview.

19 Q. And is that a true and correct copy of the personal
20 information questionnaire that you would have used in the
21 beginning of your interview with this defendant?

22 A. Yes.

23 Q. Under what circumstances do you use this questionnaire
24 and go over these questions with the defendant at the
25 beginning of an interview?

1 A. An in-custody-type interview.

2 Q. And do you do that for every in-custody interview that
3 you conduct?

4 A. I do.

5 Q. What is the purpose for you to review these questions
6 with the defendant?

7 A. I use this so I can evaluate their level of functioning,
8 their level of understanding. I think it's unfair to set
9 down the Miranda warning, with three or four sentences in the
10 Miranda warning, for me to be able to determine whether
11 someone can understand them well enough to waive their
12 rights.

13 Q. And do some of the questions also ask for biographical
14 information from the defendant?

15 A. Yes.

16 Q. Do any of the questions on the questionnaire relate to
17 the crime for which the person has been arrested?

18 A. No.

19 MS. SVENDSEN: Your Honor, I offer Government's
20 Exhibit 1.

21 THE COURT: Any objection?

22 MR. OLSON: No, your Honor.

23 THE COURT: Government's Exhibit 1 is received.

24 BY MS. SVENDSEN:

25 Q. After you completed going through those personal

1 information questions, then what happened?

2 A. Then I moved a little bit closer to him and set down the
3 Miranda warning sheet that we have and had him read it aloud
4 to me.

5 Q. And did the defendant then read each of those rights
6 aloud to you?

7 A. Yes, he did.

8 Q. What happened after the defendant had read each of the
9 rights aloud?

10 A. I asked him if he understood them.

11 Q. And how did he respond?

12 A. He said that he did.

13 Q. Then what happened?

14 A. I asked him if he wanted to talk to me that day, and he
15 said he did, so I asked him to sign the form.

16 Q. And how did the defendant respond to that?

17 A. He said he did want to talk to me, and he did sign the
18 Miranda warning.

19 Q. And what did you do with that completed form after the
20 interview was completed?

21 A. I gave it to Chief Jobe.

22 Q. And do you have a copy of that completed form in your
23 case file?

24 A. No.

25 Q. Could you explain why that is?

1 A. I knew the case wasn't my case, an Iowa case, and it just
2 made more sense to send the original evidence up to Truman,
3 Minnesota.

4 MS. SVENDSEN: Your Honor, may I approach the
5 witness?

6 THE COURT: You may.

7 BY MS. SVENDSEN:

8 Q. Showing you what's been marked as Government's Exhibit 2,
9 what is that document?

10 A. The Waiver of Rights that we use at the police
11 department.

12 Q. And is that a true and correct copy of the Miranda form
13 that you reviewed with the defendant in this case?

14 A. Yes.

15 Q. But the form is blank; is that correct?

16 A. Yes.

17 Q. Is that the same form that you use for all the custodial
18 interviews that you conduct?

19 A. Yes.

20 MS. SVENDSEN: Your Honor, I offer Government's
21 Exhibit 2.

22 MR. OLSON: No objection.

23 THE COURT: Exhibit 2 is received.

24 BY MS. SVENDSEN:

25 Q. Was the interview that you conducted with the defendant

1 audio recorded?

2 A. Yes.

3 Q. How?

4 A. I audio recorded it with my recorder.

5 Q. And was it audio recorded in some other way, as well?

6 A. I believe that the Truman, Minnesota Police also had a
7 recorder. I don't know if it recorded or if it was
8 functioning.

9 Q. When was your recorder turned on?

10 A. I turned it on prior to the defendant being brought into
11 Sergeant Johnson's office.

12 Q. And where was your recorder placed?

13 A. On Sergeant Johnson's desk.

14 Q. Was that recorder out in plain sight during the
15 interview?

16 A. Yes.

17 Q. At any time during your interview with the defendant was
18 the recorder turned off?

19 A. No.

20 Q. After you had obtained the recording of the entire
21 interview, what did you do with the recording?

22 A. I took it back to the police department, where I
23 transferred it from the recorder to my undercover laptop
24 computer, then it was immediately transferred to a CD/DVD.

25 Q. And what happened to that CD/DVD?

1 A. The original went into our locked evidence bureau at the
2 police department, and a copy was sent up to Chief Jobe.

3 Q. And just to clarify, could you describe what kind of
4 recording device you were using?

5 A. It's a hand-held digital voice recorder.

6 Q. So there's no tape, or anything, in the recorder, it just
7 makes a digital recording; is that correct?

8 A. Yes.

9 MS. SVENDSEN: Your Honor, may I approach the
10 witness?

11 THE COURT: You may.

12 BY MS. SVENDSEN:

13 Q. I'm showing you what's been marked as Government's
14 Exhibit 4 -- I seem to have slipped the numbers on a couple
15 of these -- but can you tell me what that is?

16 A. This is a copy of the recording that I made of my
17 interview with Mr. Wilcox.

18 Q. And how did you go about creating that copy that you
19 made?

20 A. We have a burner at the police department, where you can
21 put the original disk in and, then, a blank disk underneath
22 and, then, make an exact recording onto the new disk.

23 Q. And have you listened to that recording prior to coming
24 here today?

25 A. Yes.

1 Q. Is that a fair and accurate recording of the interview?

2 A. Yes.

3 Q. Was there ever a time when you left the room during the
4 interview?

5 A. Yes.

6 Q. Approximately how long were you gone?

7 A. I left approximately an hour and nineteen minutes into
8 the interview. And I came back just before the interview was
9 concluded.

10 Q. And, so, during the time that you were gone, based on
11 your review of the recording, did the recorder continue to
12 record?

13 A. Yes.

14 Q. And is that recording fair and accurate for the time that
15 you were in the room?

16 A. Yes.

17 MS. SVENDSEN: Your Honor, I offer Government's
18 Exhibit 4.

19 MR. OLSON: No objection.

20 THE COURT: Received.

21 BY MS. SVENDSEN:

22 Q. Was the interview with the defendant recorded in any
23 other way?

24 A. It was video recorded.

25 Q. Did you operate that video-recording equipment yourself?

1 A. No.

2 Q. Why not?

3 A. I was in an unfamiliar setting, and I did not know how to
4 run their equipment.

5 Q. So who operated that equipment, if you know?

6 A. Sergeant Johnson.

7 Q. Have you had an opportunity to view the video recording
8 of the interview?

9 A. Yes.

10 Q. When does it begin?

11 A. It begins at approximately two p.m.

12 Q. And what's happening when the video begins?

13 A. You can see Sergeant Johnson in the room, the two Truman
14 officers and myself.

15 Q. And does that start prior to the defendant being brought
16 into the room?

17 A. Yes.

18 Q. Is the entire interview recorded?

19 A. Yes -- I'm sorry -- the video appears to miss the last
20 couple of minutes of the interview before he's taken out of
21 the room.

22 Q. And do you recall approximately how much time that would
23 be?

24 A. I believe it was shut off about eight or nine minutes, it
25 looks like, before my audio recording stopped, because we

1 were all in the room still with the defendant when the video
2 was shut off.

3 Q. And the audio recording, then, continues until the time
4 that the defendant is taken out of the room; correct?

5 A. Yes.

6 MS. SVENDSEN: Your Honor, may I approach the
7 witness?

8 THE COURT: You may.

9 BY MS. SVENDSEN:

10 Q. I'm showing you what's been marked as Government's
11 Exhibit 3. What is that?

12 A. This is the two disks of the video recording with
13 Mr. Wilcox.

14 Q. And could you just describe what the two disks are?

15 A. They're on two different disks because it was about a
16 two-hour and four-minute interview. And, so, it's divided on
17 two different disks, I assume, because it couldn't all fit on
18 to one.

19 Q. And have you had an opportunity to view these particular
20 DVDs that are before you?

21 A. Yes.

22 Q. For the parts of the interview for which you were
23 present, is this a true and correct recording of the
24 interview?

25 A. Yes.

1 Q. Is there some issue with the sound on that recording?

2 A. The sound on this is very poor.

3 Q. But for what it is pictured on the video, it's a fair and
4 accurate recording; is that correct?

5 A. Yes.

6 MS. SVENDSEN: Your Honor, I offer Government's
7 Exhibit 3.

8 MR. OLSON: No objection.

9 THE COURT: Exhibit 3 is received.

10 BY MS. SVENDSEN:

11 Q. During the course of the interview, did the defendant
12 ever ask for an attorney?

13 A. No.

14 Q. Did he ever ask to stop the questioning?

15 A. No.

16 Q. What was the tone of the interview?

17 A. It was conversational.

18 Q. And during the course of the interview, did either you or
19 Officer Bonine ever yell at the defendant?

20 A. No.

21 Q. Was he threatened in any way?

22 A. No.

23 Q. Were any promises made to him?

24 A. No.

25 Q. Based on your interview with the defendant, what, if

1 anything, could you tell about whether he appeared to be
2 intoxicated by either drugs or alcohol?

3 A. No, he was not.

4 Q. How did he track your questions?

5 A. Very well.

6 Q. Did he appear to understand the questions you were asking
7 him?

8 A. He did.

9 Q. And did he give appropriate responses that were
10 responsive to the questions?

11 A. Yes.

12 Q. What happened when the interview concluded?

13 A. When the interview was concluded, he was rehandcuffed and
14 then taken back, I assume, to a cell there at Buchanan County
15 Jail.

16 Q. Approximately how long did the interview last?

17 A. Two hours and four minutes.

18 MS. SVENDSEN: Thank you, your Honor.

19 THE COURT: Okay. Cross-exam.

20 CROSS-EXAMINATION

21 BY MR. OLSON:

22 Q. Officer Hansel, I'm Doug Olson. I represent Mr. Wilcox.
23 Good afternoon. Let's see. You've been a police officer,
24 investigator for over 18 years; is that correct?

25 A. I've been an officer for 18. I've been an investigator

1 since November of 2001.

2 Q. And you were involved in sex crimes investigations for
3 over five years; right?

4 A. Yes.

5 Q. And, then, you've been doing Internet pornography and
6 related activities for the last what, year or two?

7 A. Yes.

8 Q. Okay. So that's kind of become your area of specialty;
9 right?

10 A. Yes.

11 Q. And, specifically, now you've gone from just general sex
12 crimes into Internet pornography and related topics; right?

13 A. Yes.

14 Q. And, so, on December 15th, you were specifically sought
15 out and called to assist in this investigation based on your
16 expertise in this area; right?

17 A. Yes.

18 Q. And, so, you drove from where your office is in Cedar
19 Rapids up to Buchanan County; right?

20 A. Yes.

21 Q. Were you at the Buchanan County Courthouse, then? Is
22 that where this took place?

23 A. Yes.

24 Q. And how long a drive is it from Cedar Rapids to the
25 Buchanan County Courthouse?

1 A. Forty to 45 minutes.

2 Q. Okay. Now, Mr. Wilcox had been arrested -- your
3 interview with Mr. Wilcox took place on December 15th, 2009;
4 right?

5 A. Yes.

6 Q. Mr. Wilcox was arrested on December 14th; right?

7 A. That I don't know.

8 Q. Well, sometime in the afternoon, his truck was stopped --
9 I mean, you're basically aware that sometime the day before
10 his truck was stopped somewhere else; right?

11 A. I knew that his truck had been stopped, yes, sir. I'm
12 just not sure when.

13 Q. Okay. But sometime the previous day; right?

14 A. That I wasn't -- I was just aware that he had been
15 stopped, and he was being held at Buchanan County Jail.

16 Q. When you started interviewing him, did you know how long
17 he had been in jail?

18 A. No.

19 Q. You didn't ask anybody how long this man's been sitting
20 in jail?

21 A. No.

22 Q. But you knew that he was sitting in jail on a 48-hour
23 hold; right?

24 A. Yes.

25 Q. In fact, in your police report, you indicated that

1 Mr. Wilcox's truck had been stopped on the scales on I-380
2 just south of Waterloo, and was currently being held in the
3 Buchanan County Jail on a 48-hour police hold from Truman,
4 Minnesota. Right?

5 A. Yes.

6 Q. Okay. So you get a call. Did you get a call from
7 Sergeant Johnson asking for your assistance?

8 A. No; from my commander on the task force, Gerard Meyers,
9 who's in Ankeny, Iowa.

10 Q. Okay. So somehow word got relayed to your commander for
11 you to come to assist these people in law enforcement in
12 Buchanan; right?

13 A. Yes.

14 Q. Excuse me, is Buchanan a city or is that just a county?

15 A. It's a county.

16 Q. And what city are you in?

17 A. I believe it's Independence.

18 Q. Okay. How long were you at the Buchanan County
19 Courthouse before you started the interview with Mr. Wilcox?

20 A. Approximately 20 minutes.

21 Q. And in the interview room with you, you said, was Officer
22 Chad Bonine; right?

23 A. Yes.

24 Q. And he's a Truman police officer; right?

25 A. Yes.

1 Q. During the course of the interview, he sat behind the
2 desk; right?

3 A. Yes.

4 Q. Were you already in the room when Mr. Wilcox was brought
5 into the room?

6 A. Yes.

7 Q. The two of you sat in two chairs across from the desk;
8 right?

9 A. Myself and Mr. Wilcox.

10 Q. Yes.

11 A. Yes.

12 Q. Okay. And you were seated -- I think you stated that
13 your knees were about a foot apart; right?

14 A. Yes.

15 Q. You were not in uniform; right?

16 A. No.

17 Q. And he was clearly in custody when he -- he was in
18 custody the entire time; right?

19 A. Yes.

20 Q. Now, you started off asking him questions that you
21 described off your biographical sheet, which is Exhibit 1;
22 right?

23 A. Yes.

24 Q. And you went through all those matters, and you talked
25 with him for a period of time before you gave him a Miranda

1 warni ng; ri ght?

2 A. Yes.

3 Q. So there were a number of questions posed to him and
4 answers that he gave back before you gave him a Mi randa
5 warni ng; ri ght?

6 A. Yes.

7 Q. And a transcript was prepared from the interview that you
8 had with Mr. Wi lcox; ri ght?

9 A. I was told yesterday that there is a transcript. I've
10 not seen it.

11 MR. OLSON: May I approach the witness, your
12 Honor?

13 THE COURT: You may.

14 BY MR. OLSON:

15 Q. I'm showing you my copy of the transcript that was
16 prepared of the interview between you and Mr. Wi lcox. It's
17 Bates stamp is Number 6, and it goes through Bates stamp 90,
18 85 pages. Do you want to just take a look and see if that
19 looks like it's the transcript of the interview.

20 A. It appears to be.

21 MR. OLSON: Your Honor, I'm going to offer into
22 evidence thi s as Defendant's -- shall I call thi s Defendant's
23 Exhi bi t 1 or...?

24 THE COURT: Yes.

25 MR. OLSON: Because I don't have thi s marked.

1 THE COURT: We'll mark it. And we'll have to
2 get copies of it, I assume.

3 MR. OLSON: Yes, because I don't have another
4 copy of it. So can I just use it and we'll mark it here?

5 THE COURT: Any objection?

6 MS. SVENDSEN: Your Honor, no objection to its
7 admission for purposes of this hearing. I would just note
8 that the recording is before the Court. So to the extent
9 that there's any disagreement between the transcript and the
10 recording, the Court, I would request, would use the
11 recording.

12 THE COURT: Understood. For purposes of this
13 hearing, Defendant's Exhibit 1 will be received.

14 MR. OLSON: I'm going to use this because it
15 would be clumsy to use the actual recording. So we'll only
16 use the transcript.

17 THE COURT: And, Mr. Olson, if you're going to
18 stand there, you're either going to have to turn towards the
19 court reporter or keep your voice up or we're going to have
20 to have you do it from there. Okay. Go ahead.

21 BY MR. OLSON:

22 Q. So, obviously, this was all recorded, it was video
23 recorded and audio recorded, and that's all accurate, and
24 this is just a transcript that someone else has prepared;
25 right?

1 A. Yes.

2 Q. Okay. So I'm just going to ask you a few questions from
3 this transcript. Okay?

4 A. Okay.

5 Q. All right. When you started off your questioning, the
6 way that you introduced yourself, you came into the room and
7 you introduced yourself and you asked Mr. Wilcox how he was;
8 right?

9 A. Yes.

10 Q. And his response was: "Not in the best of moods under
11 the circumstances." Right?

12 A. Yes.

13 Q. And, then, you told him: "Okay. Well, I'll be nice.
14 Okay"?

15 A. Yes.

16 Q. And that's how you started off the interview; right?

17 A. Yes.

18 THE COURT: And that was page one?

19 MR. OLSON: That's page one of the interview,
20 your Honor.

21 THE COURT: Okay.

22 BY MR. OLSON:

23 Q. And, then, you went through the biographical particulars
24 that we talked about off your questions from Exhibit 1;
25 right?

1 A. Yes.

2 MR. OLSON: Can I just have permission to
3 approach the witness and question from there? Probably
4 easier.

5 THE COURT: You may. But I'm going to have to
6 make sure we keep, as I said, our voice up, and facing as
7 much as we can this way. And Tell me what page, if you're
8 talking about the transcript.

9 BY MR. OLSON:

10 Q. And at least from the transcript, it isn't until page 13
11 that you actually got around to going through the Miranda
12 warning with him; right?

13 A. Yes.

14 Q. Okay. And, so, all the questions and answers before page
15 13 were not preceded by the Miranda warning; correct?

16 A. Yes.

17 Q. Okay. I'm going to go back and ask you some questions.
18 On page 12 of the transcript, you're going through the
19 biographical information and, then, you finally introduce
20 Officer Bonine; right?

21 A. Yes.

22 Q. And how do you introduce Officer Bonine to Mr. Wilcox on
23 page 12 of the transcript?

24 A. "This is my friend Chad."

25 Q. Okay. And, so, when you got around to introducing the

1 other officer, you said to Mr. Wilcox: "By the way, this is
2 my friend Chad." Right?

3 A. Yes.

4 Q. And, then, you proceeded to page 12 again. You told him
5 why you were there; right?

6 A. Yes.

7 Q. And at the bottom of the page 12, what did you tell
8 Mr. Wilcox as to why you were there?

9 A. Issues with his computer equipment.

10 Q. And, specifically, you told him: "Why I'm here is
11 there's some issues maybe with your computer equipment.
12 There are some things on there that we may need to talk
13 about. Okay"? Right?

14 A. Yes.

15 Q. All right. And, then, you got into the Miranda warning;
16 right?

17 A. Yes.

18 Q. And before you read him the Miranda warning, you told
19 Mr. Wilcox that: "I'm not here to arrest you. I'm just here
20 to talk to you. Okay"? Right?

21 A. Yes.

22 Q. And, then, again before you read him the Miranda warning,
23 on page 13, you again told him: "I'm not here to arrest you.
24 What's going on in Minnesota -- I don't work up there. What
25 I'm concerned about is your truck and what is in your truck.

1 Okay"? Right, that's what you told him?

2 A. Yes.

3 Q. Now, was that truthful? Is that the reason you were
4 there to question him because you were concerned about what
5 was in his truck?

6 A. Yes.

7 Q. And, then, after reading him the Miranda warning, at the
8 top of page 14, you started talking again about the reasons
9 that you were there; right?

10 A. Yes.

11 Q. And you told him: "Okay. I work Internet stuff, and it
12 has come -- it kind of come to our attention that there might
13 be some things going on with your computer that's on there
14 that shouldn't be on there." Right?

15 A. Yes.

16 Q. And, then, Mr. Wilcox said: "Okay." Right?

17 A. Yes.

18 Q. Then you told him: "And I just want to tell you, okay?
19 I'm not here to judge you. That's not my job. I just want
20 to talk to you. And my job is to help families that have
21 gotten off track on something to try and get back on."

22 Right?

23 A. Yes.

24 Q. And, then, you started asking him questions about the
25 computers; right?

1 A. Yes.

2 Q. And, then, during the course of your interview, you
3 started asking him questions about the computers; right?

4 A. Yes.

5 Q. And, then, towards the bottom of page 16, Mr. Wilcox
6 suggested that his daughter had been making some sexual --
7 some questions about his daughter saying that he had been
8 making some sexual advances and that's why he was sitting in
9 jail. And that's what he told you; right?

10 A. Yes.

11 Q. And, then, you responded: "I'm going to help you get to
12 the bottom of that. Okay? Because, like I said, we want the
13 family to get on track. We want to get things straightened
14 out. And that's my job to help you to do that. Okay? So
15 let's go with this computer. So it's always been in your
16 truck." Right?

17 A. Yes.

18 Q. And, then, you proceeded to talk about the computers some
19 more. And, then, it really wasn't until page 27 from the
20 transcript of this interview, after talking with Mr. Wilcox,
21 that you really got into the reason that you're there; right?

22 A. Yes.

23 Q. And at the top of page 27, you stopped talking about this
24 computer business and you said to Mr. Wilcox: "Well, let me
25 -- do you mind if I tell you what's going on here? Because I

1 want -- the one thing that you and I need to be today is
2 honest with each other. Here's the thing I know from talking
3 to you." And he said: "Okay." And you said: "You have a
4 great kid. You know, she has a stumbling block, but what kid
5 doesn't; right"? Mr. Wilcox said: "Yes." Then you told
6 him: "That she clearly loves you and has a lot of respect
7 for you and looks up to you. You know, she has some
8 troubling times. I've been a cop for 18 years, and one thing
9 I found out over the years is kids usually act out because
10 there's something going on, something's bothering them. I
11 think we can -- all right." And, then, he started talking
12 about her problems; right?

13 A. Yes.

14 Q. Then you continued on at the bottom of page --

15 THE COURT: Let's paraphrase some of these
16 portions. Okay?

17 MR. OLSON: Okay.

18 BY MR. OLSON:

19 Q. At the bottom of page 27, once again you said that you
20 wanted him to be honest with you, and then you said: "But I
21 think we need to get the family some help." Right?

22 A. Yes.

23 Q. And, then, continuing on on page 28 -- now, at this point
24 in time, 28 pages into the interview, he hasn't made any
25 admissions, he hasn't talked about any sexual acts with his

1 daughter; right?

2 MS. SVENDSEN: Objection, your Honor. The
3 witness hasn't had an opportunity to review the 27 prior
4 pages.

5 THE COURT: I would agree with that. If you
6 need to paraphrase -- or -- I mean, rephrase your question.

7 BY MR. OLSON:

8 Q. Do you recall if, after this point in the interview, he
9 had made any admissions or talked about any sexual conduct
10 with his daughter?

11 A. What I recall is 35 minutes into it is the part that you
12 had pointed out just a little bit ago about talking about the
13 case. And at 41 minutes into the interview is when he made
14 his first admission about sexually abusing his daughter.

15 Q. Okay. And where he first made his admissions about
16 having sex with his daughter came on page 30; right?

17 A. Yes.

18 Q. And the first thing -- I mean, you went back and listened
19 to the tape; right?

20 A. Yes.

21 Q. And I think you said 41 minutes into it, the first thing
22 that he says that would be an admission or an acknowledgement
23 of having sex is when he said: "She came to me and proposed
24 it." Right?

25 A. Yes.

1 Q. And, then, from there on out, the subject matter of the
2 interview is primarily about what had happened between him
3 and his daughter; right?

4 A. Yes.

5 Q. Okay. And in the pages 28, 29 and 30, leading up to
6 where he finally confessed and started talking about having
7 sex with his daughter, you continued to make statements to
8 him to the effect that you were trying to help him, that you
9 weren't trying to judge him, and that you were trying to lift
10 the burden off his shoulders; right?

11 A. Trying to help the family, yes.

12 Q. Okay. And everything that you said to him in order to
13 get him to start talking is on the audiotape; right?

14 A. Yes.

15 Q. And, then, it's reflected in the transcript here; right?

16 A. It appears to be, yes.

17 Q. Okay. So, basically, it took you 41 minutes to break
18 Mr. Wilcox down and get him to start talking about having sex
19 with his daughter; right?

20 A. Yes.

21 Q. And that's why you were brought in, for your expertise,
22 to conduct the interview with Mr. Wilcox; right?

23 A. Yes.

24 Q. And this interview that took place was about a total of
25 two hours in length; right?

1 A. Yes.

2 Q. And during the course of the interview, you sat less than
3 a foot away from Mr. Wilcox; right?

4 A. Yes.

5 Q. And you turned and you were face to face with him; right?

6 A. Yes.

7 Q. And at various points in time, you placed your hands on
8 his knees; right?

9 A. It looks like a couple of times I reached over and I
10 would pat one of his knees with one of my hands.

11 Q. Okay. And you patted his knees, you touched him, prior
12 to him breaking down and starting to talk with you about the
13 sex that he'd had with his daughter?

14 A. I don't specifically recall when I did it.

15 Q. Okay. It would otherwise be reflected on the videotape;
16 right?

17 A. Yes.

18 MR. OLSON: Okay. I have no further questions,
19 your Honor.

20 THE COURT: Okay. Redirect.

21 MS. SVENDSEN: Very briefly, your Honor.

22 THE COURT: All right.

23 REDIRECT EXAMINATION

24 BY MS. SVENDSEN:

25 Q. Investigator Hansel, prior to beginning your interview

1 with the defendant, had you received any information from law
2 enforcement related to the defendant's computers?

3 A. Yes.

4 Q. What information had you received?

5 A. The information I had received was there was some sexual
6 allegations made with his daughter. They had done a search
7 warrant, there was some videotapes or things found, and he
8 would have computer equipment and cameras that may have been
9 used to record those acts in his semi.

10 Q. And what would the computer equipment have been used for?

11 A. To record sexual acts with himself and his daughter.

12 MS. SVENDSEN: Nothing further, your Honor.

13 THE COURT: Okay.

14 THE COURT: Any recross on that part?

15 MR. OLSON: No, your Honor.

16 THE COURT: Okay. Thank you. You're excused.

17 All right. Any further witnesses on behalf of
18 the United States?

19 MS. SVENDSEN: No, your Honor.

20 THE COURT: All right. Any witnesses,

21 Mr. Olson, on this matter?

22 MR. OLSON: No, your Honor.

23

24

25

CERTIFICATE PAGE

I, Ronald J. Moen, Official Shorthand Reporter, CSR, RMR, and a Notary Public for the county of Hennepin, state of Minnesota, do hereby certify:

That the said MOTIONS HEARING was taken before me as an Official Shorthand Reporter, CSR, RMR, and a Notary Public at the said time and place and was taken down in shorthand writing by me;

That said MOTIONS HEARING was thereafter under my direction transcribed into computer-assisted transcription, and that the foregoing transcript constitutes a full, true and correct report of the EXCERPTS OF PROCEEDINGS which then and there took place;

That I am a disinterested third person to the said action;

That the cost of the original has been charged to the party who ordered the EXCERPTS OF PROCEEDINGS of the MOTIONS HEARING, and that all parties who ordered copies have been charged at the same rate for such copies.

That I reported pages 1 through 35 of the Excerpts of Proceedings.

IN WITNESS THEREOF, I have hereto subscribed my hand this 5th day of August, 2010.

s/Ronald J. Moen
RONALD J. MOEN,
OFFICIAL SHORTHAND REPORTER,
CSR, RMR